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12 *Attorneys for Plaintiffs Rachel Diller and*
13 *Trong Nguyen and the Proposed Class*
(Additional Counsel Listed on Signature Page)

14 **UNITED STATES DISTRICT COURT**
15 **NORTHERN DISTRICT OF CALIFORNIA**
16

17 **IN RE TRANSPACIFIC PASSENGER**
18 **AIR TRANSPORTATION**
19 **ANTITRUST LITIGATION**

Case No. 07-cv-05634-CRB

MDL No. 1913

20 **This Document Relates to:**

21 **ALL ACTIONS**
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PLAINTIFFS RACHEL DILLER AND
TRONG NGUYEN'S RESPONSE TO
MOTION OF PLAINTIFFS DONALD
WORTMAN, WILLIAM ADAMS AND
MARGARET GARCIA'S MOTION FOR
APPOINTMENT OF INTERIM LEAD
COUNSEL

Date: March 28, 2008

Time: 10:00 a.m.

Judge: Hon. Charles E. Breyer

1 **MEMORANDUM OF POINTS AND AUTHORITIES**

2 Plaintiffs Rachel Diller and Trong Nguyen ("Plaintiffs") hereby respond to the motion of
3 Donald Wortman, William Adams and Margaret Garcia to appoint the law firm of Cotchett, Pitre
4 & McCarthy ("CPM") to serve as Interim Lead Class Counsel for the putative plaintiff class in
5 these cases.
6

7 Plaintiffs do not oppose having CPM serve as *one* of the Interim Lead Class Counsel in
8 this case. Plaintiffs *do* oppose having CPM serve as the *sole* Interim Lead Class Counsel in this
9 case. Plaintiffs believe that the present dispute can best be resolved by appointing CPM and
10 Cohen Milstein Hausfeld & Toll P.L.L.C. ("CMHT") as Co-Interim Lead Class Counsel, the
11 same leadership structure that the Court approved in *In re International air Transportation*
12 *Surcharge Antitrust Litig.*, MDL No. 1793 (N.D. Cal.) ("*Air Passengers*").
13

14 This is a case involving as many as a dozen airlines. Many of those airlines have their
15 principal places of business overseas. Having a single Lead Interim Class Counsel is not an
16 optimal structure in such a case. Indeed, in the other airlines surcharge cases, courts have
17 appointed four (*In re Air Cargo Shipping Servs. Antitrust Litig.*, MDL No. 1775 (E.D.N.Y.)),
18 three (*In re Korean Air Lines Co., Ltd. Antitrust Litig.*, MDL No. 1891 (N.D. Cal.)), or two (*Air*
19 *Passengers*). In *Korean Air* and *Air Passengers*, three and two co-leads, respectively, were
20 appointed even though far fewer defendants were named than is the case here.
21

22 CMHT is perfectly willing to work with CPM as a co-lead, as it has done in *Air*
23 *Passengers*. That structure worked efficiently there and can do so again here.¹ This case
24 certainly would benefit from having two co-leads, one of which is nationally-based and has
25 extensive experience dealing with foreign law claims.

26 For the foregoing reasons, Plaintiffs oppose having CPM as sole Lead Interim Class
27

28 ^{1/} CMHT is also willing to work with CPM in creating an Executive Committee to assist the
Co-Interim Lead Class Counsel in prosecuting this action.

1 Counsel in these cases, but are willing to have CPM serve as Co-Lead Interim Class Counsel
2 with CMHT.

3 Dated: March 7, 2008

Respectfully submitted,

5 By: /s/ Michael P. Lehmann

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